

Innovation of Service Trade Dispute Settlement Mechanism of Hainan Free Trade Port and Connection of International Rules

Xiao Shurui^{1*}, Mo Haipeng¹, Xu Baiqing²

¹Hainan Vocational University of Science and Technology, Hainan Guangzhe Law Firm, Hainan, China

²Hainan Rural Commercial Bank, Hainan, China

*Corresponding Author

Abstract: With the promotion of the operation of the island's customs closure, Hainan's service trade is booming, and the related disputes show the characteristics of internationalization of the subject, new content, complicated application of law and cross-border implementation. Although Hainan has initially established a multi-dispute resolution framework of litigation, arbitration and mediation, and innovated in the fields of ad hoc arbitration and international commercial mediation through local legislation, the existing mechanism still has core problems such as insufficient overall synergy, weak international compatibility and credibility, and imperfect supporting guarantee system. This paper puts forward a systematic innovation path from three dimensions of mechanism framework, procedure design and guarantee system, advocates building a three-dimensional system with "one-stop" platform as the hub, implementing the principle of "first mediation, main arbitration, and litigation guarantee", and supporting multiple guarantees such as procedure integration, digital upgrading, strengthening of the rule of law, personnel training and cross-border coordination, so as to form a new service trade dispute settlement mode with China characteristics and international practices. It provides theoretical reference and practical guidance for Hainan Free Trade Port to build an international and legal business environment.

Keywords: Hainan Free Trade Port; Service Trade Dispute; Dispute Settlement Mechanism; Connection of International Rules

1. Introduction

Hainan Free Trade Port is a strategic measure taken by China to promote a higher level of opening to the outside world in the new era. It undertakes the important mission of building a high-level free trade port with international influence. With the substantial promotion of the operation of the island's customs closure, trade in services, as a key area of free trade port construction, has continuously improved its openness and innovation vitality. At present, Hainan has initially formed a trinity multi-dispute resolution system of litigation, arbitration and mediation, and actively explored in the fields of temporary arbitration and international commercial mediation through local legislative innovations such as the Regulations on Commercial Mediation of Hainan Free Trade Port. However, the existing mechanism still faces practical challenges in terms of rules connection, procedure compatibility, talent reserve, etc., and it is urgent to enhance its international competitiveness and credibility through systematic innovation [1]. Because of its cross-border, intangibility and complexity, trade in services is inevitably accompanied by various commercial disputes in the process of rapid development. These disputes involve not only traditional commercial contract performance, but also emerging areas such as cross-border data flow, digital product delivery and mutual recognition of professional qualifications, posing unprecedented challenges to the existing dispute resolution system. The construction of a dispute settlement mechanism for trade in services that can not only adapt to Hainan's local reality but also smoothly interface with international prevailing rules has become one of the core issues related to the success or failure of the construction of a free trade port ruled by law and an international business environment.

This study focuses on the innovative path of Hainan Free Trade Port's service trade dispute

settlement mechanism and its connection with international rules, striving to form a new service trade dispute settlement model with Hainan characteristics while absorbing international advanced experience, so as to provide reference for the construction of the rule of law and the optimization of the business environment of Hainan Free Trade Port.

2. Status and Problems of Dispute Settlement Mechanism for Trade in Services of Hainan Free Trade Port

2.1 Hainan Free Trade Port Service Trade Development and Dispute Characteristics

With the construction of Hainan Free Trade Port entering a new stage of island-wide customs closure operation, remarkable progress has been made in the field of service trade under a more open policy framework. The management model centered on the negative list of cross-border trade in services has greatly relaxed market access and promoted the vigorous development of cross-border delivery and commercial presence in tourism, transportation, financial services, professional services and other fields. The scale of service trade continues to expand, the structure is continuously optimized, and the proportion of knowledge-intensive and characteristic service trade has steadily increased. It has become a key force driving Hainan's economic growth and opening up to the outside world. This kind of high-speed development situation enlivened the market, but also inevitably led to the synchronous growth and evolution of all kinds of commercial disputes [2].

Under this background, the service trade dispute of Hainan Free Trade Port presents several distinct characteristics. First of all, the composition of dispute subjects is becoming more and more international and diversified, involving overseas service providers, investment enterprises in Hainan, domestic consumers and various transnational platforms, and the legal relations are intertwined and complex. Second, disputes go beyond traditional commercial contracts and increasingly touch on cutting-edge areas such as compliance with cross-border data flows, intellectual property protection for digital products and services, cross-border mutual recognition of professional qualifications and standards, and regulatory boundaries for new formats of offshore trade. Thirdly, due to the cross-border nature of service provision and

consumption, disputes often have significant foreign-related factors, which makes the application of law, the determination of jurisdiction and the choice of dispute resolution institutions become the primary problems, and conflicts of rules between different jurisdictions often appear [3]. Finally, whether the dispute settlement results can be recognized and effectively implemented across borders is directly related to the ultimate realization of the rights and interests of the parties, which puts forward inherent requirements for the international credibility and procedural compatibility of the dispute settlement mechanism itself. Together, these characteristics indicate that the existing dispute settlement system is under urgent pressure to transform from dealing with traditional disputes to dealing with new and complex international commercial disputes.

2.2 The Existing Dispute Settlement Mechanism for Trade in Services in Hainan Free Trade Port

Hainan Free Trade Port has initially established a diversified service trade dispute settlement mechanism framework with litigation, arbitration and mediation as the core and actively exploring the connection with international rules. This framework is based on the Hainan Free Trade Port Law as the top legal basis and aims to create a "preferred place" for international commercial dispute resolution. In terms of specific mechanism construction, Hainan took the lead in promulgating the Regulations on Commercial Mediation of Hainan Free Trade Port and supporting registration management measures through local legislation, established basic systems such as the establishment, management, operation and selection of mediators of commercial mediation organizations, clearly encouraged parties to give priority to mediation methods to resolve disputes, and innovated supporting incentive measures such as reduction and exemption of litigation costs. At the same time, Hainan has set up an international commercial dispute resolution center, which integrates litigation, arbitration, mediation, notarization, extraterritorial law identification and other functions to provide online and offline "one-stop" dispute resolution services.

In the field of arbitration, Hainan has made important institutional innovation by making use of the legislative power of the Free Trade Port,

promulgated Several Provisions on the Development of International Commercial Arbitration in Hainan Free Trade Port, took the lead in clarifying the legal status of interim arbitration in the form of laws and regulations in China, allowed commercial subjects within a specific scope to choose to conduct interim arbitration in Hainan, and its rules were designed to benchmark the Arbitration Rules of the United Nations Commission on International Trade Law and other international common practices. The mechanism construction also pays attention to opening up and cooperation with the outside world, supports qualified overseas commercial mediation organizations to set up business organizations in Hainan to carry out international commercial mediation, and encourages foreign and Hong Kong, Macao and Taiwan mediators to participate in dispute resolution. These measures together constitute the basic features of the current dispute settlement mechanism for trade in services in Hainan Free Trade Port, reflecting the preliminary exploration of the transformation from a single lawsuit to a pluralistic, efficient and international dispute settlement model.

2.3 Core Problems Existing in Existing Mechanisms

Although Hainan Free Trade Port has made many innovative explorations in the construction of dispute settlement mechanism for trade in services, the existing system still faces several deep-seated core problems, which restrict its full play of effectiveness and the promotion of international influence. The integrity and synergy of the mechanism are insufficient, there is no clear rule for efficient connection and procedure conversion among various dispute resolution methods such as litigation, arbitration and mediation, and an organic unified "one-stop" closed loop has not yet been formed. The parties may face the risk of procedure duplication and result conflict when choosing different paths. The actual implementation and operability of institutional innovation are facing challenges. For example, although interim arbitration has been recognized by law, the supporting rules such as the management of arbitrators' roster, the standard of arbitration place and the scale of judicial review are not perfect. There is lack of sufficient case support in practice, and its stability and predictability need to be tested. Thirdly, the international compatibility and credibility foundation of the mechanism are still weak. The

connection between the existing rules and international mainstream rules, such as the dispute settlement mechanism of the General Agreement on Trade in Services and various international commercial arbitration practices, is still at the principal level. The specific connection path is vague. In addition, the lack of permanent institutions and authoritative experts with international reputation makes it difficult to attract the parties to major cross-border service trade disputes to choose actively. There are shortcomings in the safeguard system, including the inefficiency of extraterritorial law identification mechanism, insufficient reserve of foreign-related legal service talents, and the fact that cross-border recognition and enforcement of dispute settlement results still rely mainly on bilateral judicial assistance and lack of more coercive multilateral arrangements. These problems together constitute the main obstacle to the current mechanism's leap from "localization" to "internationalization".

3. Feasibility of Reference and Connection of Dispute Settlement Rules for International Trade in Services

3.1 Typical Dispute Settlement Rules for International Trade in Services

The dispute settlement rules of international trade in services are characterized by systematization at three levels: multilateral, regional and commercial autonomy. At the multilateral level, the dispute settlement mechanism provided for in the General Agreement on Trade in Services under the framework of the World Trade Organization is at its core. The mechanism is an intergovernmental dispute settlement procedure with compulsory jurisdiction and enforcement. Its core processes include consultations, panel hearings, appellate body reviews and enforcement oversight, emphasizing rule-oriented and multilateral consistency, and aiming to maintain the balance of treaty obligations among members in the field of trade in services. However, the mechanism mainly deals with disputes over government measures related to the implementation of service trade commitments among members, and does not directly accept disputes between private commercial subjects. In recent years, problems such as the suspension of the Appellate Body have challenged its efficiency and authority. At the regional level, various free trade agreements

have constructed more diverse rules. The Trade in Services chapter and its dispute settlement mechanism, while continuing WTO rules-oriented, introduce more flexible consultation and mediation procedures and allow for disputes related to trade in services under the Investment chapter to be submitted to the investor-state dispute settlement mechanism. The Regional Comprehensive Economic Partnership Agreement, on the other hand, provides for political and diplomatic solutions, including consultation, good offices, mediation and mediation, as well as follow-up expert group procedures, with an overall style that focuses more on consultation and efficiency. At the level of private commercial dispute settlement, international commercial arbitration and mediation rules represented by UNCITRAL Arbitration Rules and ICC Arbitration Court constitute another important cornerstone of service trade dispute settlement. These rules focus on party autonomy, flexible and confidential procedures, and awards are highly enforceable on a global scale. They are the mainstream way to resolve private disputes such as cross-border service contract performance and intellectual property licensing. These multi-level and multi-type rules together constitute the current international trade in services dispute settlement rules family tree.

3.2 Feasibility of Linking International Rules with Hainan Free Trade Port Mechanism

The dispute settlement mechanism of Hainan Free Trade Port has certain institutional foundation and practical feasibility to link up with international rules, but it also faces structural obstacles. The legislative power granted by the state to Hainan Free Trade Port provides a key legal tool for actively connecting international rules. Hainan can directly absorb mature international practices such as procedure design, ad hoc arbitration system and emergency arbitrator procedure in the field of commercial dispute settlement such as arbitration and mediation by formulating local laws and regulations or special zone laws and regulations, so as to realize localization transplantation and innovation of the rules. The original intention of Hainan's existing mechanism has included international orientation, such as recognizing interim arbitration and supporting the settlement of overseas mediation organizations. Its concept is highly consistent with the aforementioned

international commercial arbitration mediation rules, and there is a natural interface, which reduces the conflict of ideas for further deepening the connection. Disputes in trade in services, especially private disputes, are inherently cross-jurisdictional in nature, and the parties 'demand for neutral, efficient and enforceable dispute resolution mechanisms is universal, creating market incentives for introducing rules with international credibility. However, the bridging process also faces significant challenges [4]. The core lies in the conflict between jurisdiction and application of law. International commercial arbitration rules are completely based on party autonomy. Hainan, as a special region under the jurisdiction of China, has sovereignty principles such as judicial final review power and public policy reservation, which cannot be exceeded. How to define the boundary between domestic judicial supervision and international arbitration autonomy is a legal issue that needs fine balance. Therefore, the feasible path of convergence should focus on the field of private commercial dispute settlement, while at the level of inter-state disputes, it should focus on the spirit of rules and procedural justice standards to provide reference for improving the rule of law and internationalization of local rules.

4. Innovative Paths of Service Trade Dispute Settlement Mechanism of Hainan Free Trade Port

4.1 Institutional Framework Innovation

The framework innovation of Hainan Free Trade Port's service trade dispute settlement mechanism should be devoted to building a three-dimensional system with distinct layers, complementary functions and internal and external links. This system takes the "one-stop" international commercial dispute resolution platform as the physical and institutional hub, integrating judicial, administrative and social resources internally and linking international rules and institutions externally. The core of the framework innovation lies in establishing a progressive distributary mechanism based on the principle of "mediation priority, arbitration priority and litigation guarantee". Through legislation or rules, parties are explicitly encouraged to try mediation before resorting to arbitration or litigation, and substantial incentives such as judicial confirmation of fast-track and cost reduction are provided for cases where

mediation agreements are reached, so that mediation becomes the first choice for efficient dispute resolution. At the arbitration level, framework innovation needs to focus on building the brand of "Hainan Arbitration". This requires not only the introduction of ad hoc arbitration, but also the establishment of a permanent Hainan International Commercial Arbitration Center with high international credibility. The Centre should formulate a set of rules that fully incorporate international practices while taking into account the characteristics of Free Trade Zone, and significantly increase the proportion of foreign and Hong Kong, Macao and Taiwan senior legal and industry experts in the Panel of Arbitrators. Within the framework, it is also necessary to clarify that the arbitration center and the provincial court establish a normal coordination mechanism to reach consensus on the preservation, evidence collection and judicial review standards of subsequent awards in the arbitration procedure, so as to ensure the balance between arbitration efficiency and judicial supervision. In addition, the framework should include an open access module that supports accredited foreign arbitration or mediation institutions to set up trial centers within the platform and apply their own rules to hear cases, thereby substantially enhancing Hainan's attractiveness and competitiveness as an international dispute resolution "destination". The operation of the whole framework needs to be supported by a digital platform to realize the online processing of the whole process from case submission, diversion, procedure management to document generation.

4.2 Program Design Innovation

The goal of program design innovation is to construct a flexible, efficient and highly predictable service trade dispute settlement process, the core of which is to break the linear barriers of traditional procedures and realize the organic integration and intelligent adaptation of multiple dispute settlement methods. Innovation is first embodied in the institutionalization of the "mediation-arbitration" fusion procedure [5]. A binding conversion mechanism should be established through the design of the rules, allowing the parties to agree in advance, at the commencement of conciliation proceedings, that if conciliation failed to reach agreement within a certain period of time, the case would automatically be transferred to arbitral

proceedings, and that the original conciliator could be converted to arbitrator with the consent of both parties, with limited use of information obtained during the conciliation phase in subsequent arbitrations. This design preserves the consultative advantages of mediation while avoiding procedural delays and ensuring the final resolution of disputes. Secondly, the program design needs to introduce differentiated fast channels for different types of service trade disputes. For disputes with clear facts, small amount of dispute subject matter or standard contract terms, simple written trial procedures can be set up to greatly shorten the defense period and trial period, and a fixed fee schedule can be set up to meet the urgent needs of modern service industry for efficiency. Furthermore, procedural transparency and enhanced party participation are key innovation directions. In addition to legal circumstances such as trade secrets, it is necessary to promote the publication of summaries of reasons for arbitral awards and explore the establishment of a mechanism for third-party outsiders to submit written opinions, so as to enhance the credibility of the procedure and social supervision. Finally, program innovation must embrace digitalization in its entirety. It is necessary to develop a full-process online platform integrating intelligent case diversion, electronic evidence storage and verification, online asynchronous trial, block chain storage and automatic judgment generation assistance, so that the program design not only stays in the rule text, but also transforms into a digital ecology that can operate efficiently.

4.3 Guarantee System Innovation

Security system innovation is the cornerstone for dispute settlement mechanism to operate effectively and win international trust. Its construction needs to be systematically promoted from four dimensions: rule of law, talents, technology and cross-border coordination. In terms of legal protection, the core task is to complete a set of internally coordinated and externally compatible rule clusters. Focus on refining the implementation rules of ad hoc arbitration, the domestic effect of emergency arbitrator decisions, and judicial review standards based on "international public policy" to form stable, clear and consistent with international mainstream practice legal expectations. Talent guarantee is the key to enhance the professionalism and attractiveness of the

mechanism. It is necessary to implement a special plan for foreign-related legal service talents covering selection, training, certification and incentive. It is not only necessary to vigorously introduce internationally renowned arbitrators, mediators and legal experts, but also to cooperate with top law schools and practical institutions at home and abroad to establish regular training bases and internship programs, and systematically cultivate local reserve forces who are proficient in international rules, familiar with free trade port policies and have cross-cultural communication skills. Technical support needs to go beyond basic informatization and turn to building a credible digital judicial environment. This includes the establishment of an official blockchain-based electronic evidence platform to ensure the legal validity of cross-border electronic data forensics, storage and authentication; and the development of multilingual, intelligent extraterritorial legal and case databases to provide efficient legal identification tools for adjudicators. Cross-border collaborative safeguards are dedicated to solving the ultimate problem of recognition and enforcement of awards. Hainan should actively strive for the authorization of the central government to negotiate and sign special arrangements on mutual recognition and enforcement of commercial judgments and arbitral awards with major trading partners on behalf of China jurisdiction, and explore the opening of green enforcement channels for awards made in FTZ under the framework of existing bilateral judicial assistance treaties, so as to substantially reduce the institutional cost and time cost of realizing the rights and interests of the parties concerned.

5. Conclusion

To construct an efficient, fair and internationally competitive dispute settlement mechanism is the key legal infrastructure to support the high-level opening and high-quality development of Hainan Free Trade Port's service trade. Although the current mechanism has achieved legislative breakthroughs and preliminary framework, it faces substantial bottlenecks. The fundamental way to solve the problem lies in systematic innovation based on local and global. First of all, in the framework of the mechanism, we must go

beyond the simple superposition of multiple dispute resolution methods, devote ourselves to building an integrated "one-stop" international commercial dispute resolution platform, and establish efficient diversion and connection procedures among mediation, arbitration and litigation through clear rules. The core is to build a permanent arbitration institution with international credibility. Secondly, in terms of program design, it is necessary to vigorously promote the institutionalization of hybrid procedures such as "mediation-arbitration", develop a rapid processing mechanism adapted to the characteristics of trade in services, and comprehensively deepen digital transformation to improve dispute resolution efficiency, predictability and user experience. Finally, any institutional innovation needs to be supported by a solid guarantee system, which requires Hainan to make simultaneous efforts in refining supporting laws and regulations, cultivating and introducing high-end foreign-related legal talents, building a credible digital judicial environment, and actively promoting recognition and enforcement cooperation of cross-border judgments and rulings.

References

- [1] Liang Z. Challenges and Solutions Facing the Policy of Hainan Free Trade Port in China[J]. *Frontiers in Business, Economics and Management*, 2023, 10(1): 154-157.
- [2] Mathlouthi N, Haider A, Khan A, et al. The role of Hainan Free Trade Port in shaping China's WTO commitments and international trade policies[J]. *China and WTO Review*, 2025, 11(1): 71-82.
- [3] Khaskheli M B, Zhao Y. The sustainability of economic and business practices through legal cooperation in the era of the Hainan free trade port and southeast Asian nations[J]. *Sustainability*, 2025, 17(5): 2050.
- [4] Xiu C, Li T. Construction of the Hainan Free Trade Port from the perspective of regional cultural development[J]. *Frontiers in Earth Science*, 2023, 10: 1032953.
- [5] Long H. Benchmarking against world's Highest-Level openness: the rule of law innovation in Hainan free trade port[J]. *Social Sciences in China*, 2024, 45(4): 154-170.